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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,879	11/20/2003	Christian Scheier	246472003300	5640

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EXAMINER

LIEW, ALEX KOK SOON

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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06/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/716,879

Applicant(s)

SCHEIER ET AL.

Examiner

Alex Liew

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6/1, 6/2, 7, 8, 10 – 14 and 19 are rejected under U.S.C. 103(a) as being unpatentable over Tian (US pat no 6,879,709) in view of official notice (MPEP 2144.03).

With regards to claim 1, Tian discloses an apparatus for examination of images comprises

- an image storage device which is designed to store image data for one or more images to be evaluated (see figure 12 – 1210 or 1220),
- a display device which is designed to display the image data (see figure 1 – 150),
- an input device for a subject (see column 10 lines 21 – 23 – the keyboard or mouse), wherein the input device comprises a pointing appliance designed such that it may be moved manually by a subject for pointing and the input device is configured to interact with a marking such that the position of the pointing appliance is displayed by the marking of the display device (device claimed is a mouse),

- a control device which connects the image storage, display and input devices (see figure 1 –the computer processor is the control device which is connect to the input and display devices),
- a data matching device for matching image data and visualization data (see figure 13 – 1000) and
- an evaluation device for calculation of a visualization profile, the visualization data comprising position data (see figure 8 – the selected zones are used to matching step).

Tian does not explicitly discuss having the input device to interrogate visualization data and having the visualization data comprising position data which is transmitted from the input device. Instead Tian discloses having a zone selector to select region(s) of the image to be examined (see column 14 lines 35 – 44 – Tian does not discuss what controls the zone selector, whether an operator inputting commands or an algorithm to decide which region(s) to select, diagram shown in figure 8). Whether the zone selector is controlled by operator inputting commands or decided by an algorithm, it is well known in the art of image analysis to have an operator using a pointing appliance device to select regions of an image for examination or modification, for example paintbrush. One skilled in the art would have an operator select examination of regions because the operator is able to select desire regions when there are too much noise in the background, which sometimes prevents a region selecting algorithm to select an undesired region to improve system recognition.

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With regards to claim 2, the pointing appliance device is a mouse as shown in Tian, column 10 lines 21 – 23.

With regards to claims 6/1 and 6/2, Tian discloses an apparatus as claimed in claims 1 and 2, wherein the control device comprises an event detector designed to record the position data when a specific event occurs (by analyzing the features of the face, the system determines whether the face has an expression or not, figure 11 – 1180 or 1190 – when there is an expression, an event occurs).

With regards to claim 7, the point appliances device such as a mouse, when clicking on icon in a window environment, a program will open, which resulting an event.

With regards to claim 8, Tian discloses an apparatus as claimed in claim 6, the specific event is the pointing appliance being at rest (see figure 8 – 800 – the zone selector can either be an algorithm or an operator selected device).

With regards to claim 10, see the rationale and rejection for claim 1.

With regards to claims 11 and 12, see the rationale and rejection for claim 6/1.

With regards to claims 13/10 and 13/11, see the rationale and rejection for claim 8.

With regards to claims 14/10 and 14/11, see the rationale and rejection for claim 2.

With regards to claim 19, see the rationale and rejection for claim 6/1.

3. Claims 3, 4/1, 4/2, 4/3, 6/3, 15/10 and 15/11 are rejected under U.S.C. 103(a) as being unpatentable over Tian ('709) in view of official notice (MPEP 2144.03) as applied to claim 1 further in view of Ito (US pat no 5,453,762).

With regards to claim 3, Tian discloses all the limitations discussed in claim 1, but does not disclose pointing appliance is a light pen. Ito discloses using a light pen to write or point in a display (see figure 7A). One skilled in the art would include using a light pen as a pointing device because a light pen is more portable to carry around as compared to carrying a mouse.

With regards to claims 4/1, 4/2 and 4/3, Tian discloses all the limitations discussed in claims 1 and 2, but does not disclose having a plurality of pointing devices. Ito discloses two input devices with pointing appliance are provided (see figure 7C). One skilled in the art would include two or more input devices with pointing appliances because one of the pointing appliance may break or get damage, having another pointing appliance allows user to continue working without replacement.

With regards to claim 6/3, see the rationale and rejection for claim 6/1.

With regards to claims 15/10 and 15/11, see the rationale and rejection for claim 3.

4. Claims 5/1, 5/2, 16/10, 16/11 and 18 are rejected under U.S.C. 103(a) as being unpatentable over Tian ('709) in view of official notice (MPEP 2144.03) as applied to claim 1 further in view of Prokoski (US pub no 2002/0140542).

With regards to claims 5/1 and 5/2, Tian discloses all the limitations discussed in claim 1, but does not disclose the evaluation module that is physically separate from the input device, pointing appliance, is connected thereto via a data network. Prokoski discloses the evaluation module that is physically separate from the input device, pointing appliance, is connected thereto via a data network (see figures 1 and 2 – 100 is where the user input information and 230 is where the evaluation occurs). One skilled in the art would include an evaluation module that is physically separate from the input device because to be able to carry the input device anywhere without having to bring the entire unit along allowing more portability.

With regards to claims 16/10 and 16/11, see the rationale and rejection for claim 5/1.

With regards to claim 18, Tian and Prokoski disclose all the limitations discussed in claim 5, but do not disclose data network is a LAN or a WAN. However, it is well known in the art to use LAN or WAN to communicate between network computer. One skilled

in the art would include LAN or WAN network because one does not have to create another network setting, since LAN is already well known, so the configuration are easier to setup.

5. Claims 5/3 are rejected under U.S.C. 103(a) as being unpatentable over Tian ('709) in view of official notice (MPEP 2144.03) and Ito ('762) as applied to claim 1 further in view of Prokoski ('542).

With regards to claim 5/3, see the rationale and rejection for claim 5/1.

6. Claims 9/1, 9/2, 20 and 21 are rejected under U.S.C. 103(a) as being unpatentable over Tian ('709) in view of official notice (MPEP 2144.03) and Ito ('762) as applied to claim 1 further in view of Steiger (US pat no 5,483,960).

With regards to claim 9/1, Tian discloses all the limitations discussed in claim 1, but does not disclose conversion module for transformation of position data from an appliance-specific coordinate system to an appliance-independent coordinate system. Steiger discloses conversion module for transformation of position data from an appliance-specific coordinate system to an appliance-independent coordinate system (see column 6 lines 34 – 39 and column 8 lines 23 – 26 – the mouse is used to position markers in the image of the individual being imaged and when the operator is not using the mouse to position the markers, then it converts to an algorithm to guess the marker

positions). One skilled in the art would include step of conversion to independent coordinate system because the operator might get tired and the markers selected are not as accurate when the operator is fatigued, so to prevent errors.

With regards to claims 9/2, 20 and 21, see the rationale and rejection for claim 21.

4. Claim 9/3 is rejected under U.S.C. 103(a) as being unpatentable over Tian ('709) in view of official notice (MPEP 2144.03) and Ito ('762) as applied to claim 3 further in view of Steiger ('960). See the rationale and rejection for claim 9/1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Liew whose telephone number is (571)272-8623.

The examiner can normally be reached on 9:30AM - 7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on (571)272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alex Liew
AU2624
6/24/07



JOSEPH MANCUSO
PATENT EXAMINER